

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

234B



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
November 7, 2008

SUBJECT: Order to Abate [Unapproved Grading]
Case No.: CV 08-00105
Subject Property: 39520 Colleen Way, Temecula; APN 942-080-039
District Three

RECOMMENDED MOTION: Move that

- (1) The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-00105 be approved;
- (2) The Chairman of the Board of Supervisors be authorized to execute the Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-00105; and
- (3) The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-00105.

BACKGROUND:

On October 28, 2008, this Board received the Declaration of the Code Enforcement Officer in the above-referenced matter. At the conclusion of the hearing, this Board declared the unapproved grading located on the subject property to be a public nuisance. The Board ordered the property owner to abate the violative conditions on the property and directed County Counsel to prepare the Findings of Fact, Conclusion and Order to Abate.

[Signature]

JULIE A.K. JARVI, Deputy County Counsel
for JOE S. RANK, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
[Signature]
BY: Tina Grande

Tina Grande

County Executive Office Signature

Dept't Recomm.:
Per Exec. Ofc.:

X Consent Policy
X Consent Policy

Prev. Agn. Ref.: 10/28/08; 9.4 | District: 3 | Agenda Number:

2.28

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WHEN RECORDED PLEASE MAIL TO:
Julie A.K. Jarvi, Deputy County Counsel
County of Riverside
OFFICE OF COUNTY COUNSEL
3535 Tenth Street, Suite 300 (Stop #1350)
Riverside, CA 92501

[EXEMPT '6103]

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**

IN RE ABATEMENT OF PUBLIC NUISANCE:)	CASE NO. CV 08-00105
[UNAPPROVED GRADING]; APN: 942-080-039,)	
39520 COLLEEN WAY, TEMECULA,)	FINDINGS OF FACT,
RIVERSIDE COUNTY, CALIFORNIA; TRACEY)	CONCLUSIONS AND ORDER TO
CASTRO, OWNER.)	ABATE NUISANCE
)	
)	[R.C.O. Nos. 457 (RCC Title 15) and
)	725 (RCC Title 1)]

The above-captioned matter came on regularly for hearing on October 28, 2008, before the Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real property described as 39520 Colleen Way, Temecula, Riverside County, APN: 942-080-039, and referred to hereinafter as "THE PROPERTY."

Alexandra Fong, Deputy County Counsel, appeared along with Jim Monroe, Code Enforcement Division Manager, on behalf of the Director of the Code Enforcement Department.

No one appeared on behalf of OWNER.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together with the attached Exhibits, evidencing the unapproved grading on THE PROPERTY as a public nuisance and violation of Riverside County Ordinance No. 457 as codified in Riverside County Code Title 15.

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder's Office identify the Owner
3 of THE PROPERTY as Tracey Castro ("OWNER").

4 2. Documents of title indicate that another party potentially holds a legal interest in THE
5 PROPERTY, to wit: Mortgage Electronic Registration Systems, Countrywide Home Loans, Inc.,
6 Recon Trust Company, N.A. and A-G Sod Farms, Inc. ("INTERESTED PARTIES").

7 3. THE PROPERTY was inspected by Code Enforcement Officers on February 27,
8 2008, June 10, 2008, August 6, 2008, September 25, 2008 and October 24, 2008.

9 4. During each inspection, Code Enforcement officers observed multiple motocross
10 tracks had been graded on THE PROPERTY without permits or County approval. On February 27,
11 2008, Code Enforcement Officers determined that approximately three hundred four (304) cubic
12 yards of dirt had been graded on THE PROPERTY without requisite County approval.

13 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance
14 No. 457 (RCC Title 15) and Board of Supervisors' Policy F-6 by the Code Enforcement Officer.

15 6. A Notice of Noncompliance was recorded on April 18, 2008 as Document Number
16 2008-0193484 in the Office of the County Recorder, County of Riverside.

17 7. On February 28, 2008, a Notice of Violation for Unapproved Grading was personally
18 served upon Andy Castro at THE PROPERTY. On March 4, 2008, a Notice of Violation was mailed
19 by certified mail, return receipt requested to the OWNER and INTERESTED PARTIES.

20 8. On September 24, 2008, a "Notice to Correct County Ordinance Violations and Abate
21 Public Nuisance" providing notice of the public hearing before the Board of Supervisors was mailed
22 by certified mail, return receipt requested, to OWNER and INTERESTED PARTIES and was posted
23 on THE PROPERTY on September 25, 2008.

24 **FINDINGS AND CONCLUSIONS**

25 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
26 regular session assembled on October 28, 2008, finds and concludes that:

27 1. WHEREAS, the unapproved grading on the real property located at 39520 Colleen
28 Way, Temecula, Riverside County, California, also identified as Assessor's Parcel Number 942-080-

1 039 violates Riverside County Ordinance No. 457 and Board of Supervisors' Policy F-6 and
2 constitutes a public and attractive nuisance.

3 2. WHEREAS, THE OWNER, occupants and any person having possession or control
4 of THE PROPERTY should abate the unapproved grading by completely restoring and remediating
5 the unapproved grading on THE PROPERTY pursuant to a Restoration Assessment from the
6 Department of Building and Safety and comply with the process and conditions thereof in strict
7 accordance with all Riverside County Ordinances, including but not limited to Riverside County
8 Ordinance No. 457, within ninety (90) days.

9 3. WHEREAS, THE OWNER IS HEREBY FURTHER NOTICED that a five (5) year
10 hold on the issuance of building permits and land use approvals will be placed on THE PROPERTY
11 in the County's automated permit issuing system.

12 4. WHEREAS, THE OWNER IS HEREBY FURTHER NOTICED that the time within
13 which judicial review of the administrative determinations made herein must be sought is ninety (90)
14 days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate
15 Nuisance, and is governed by California Code of Civil Procedure Section 1094.6.

16 **ORDER TO ABATE NUISANCE**

17 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
18 at 39520 Colleen Way, Temecula, Riverside County, California, also identified as Assessor's Parcel
19 Number 942-080-039 be abated by the OWNER, and anyone having possession or control of THE
20 PROPERTY, by completely restoring and remediating the unapproved grading on THE PROPERTY
21 pursuant to a Restoration Assessment from the Department of Building and Safety and comply with
22 the process and conditions thereof in strict accordance with all Riverside County Ordinances,
23 including but not limited to Riverside County Ordinance No. 457, within ninety (90) days of the
24 posting and mailing of this Order to Abate Nuisance.

25 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not
26 completely restored and remediated to in strict accordance with all Riverside County Ordinances,
27 including but not limited to Riverside County Ordinance No. 457, within ninety (90) days of the
28 posting and mailing of this Order to Abate Nuisance, the unapproved grading shall be abated by

1 representatives of the Riverside County Code Enforcement Department, a County approved
2 contractor, or the Sheriff's Department upon receipt of the owner's consent or a Court Order, where
3 necessary, under, applicable law authorizing entry onto THE PROPERTY, to reclaim and restore the
4 unapproved grading so as to prevent offsite drainage and slope erosion.

5 IT IS FURTHER ORDERED that a five (5) year hold on building permits and land use
6 approvals be placed on THE PROPERTY pursuant to Riverside County Ordinance No. 457. Only
7 upon restoration of THE PROPERTY and payment of all abatement costs, will the five year hold on
8 the issuance of building permits and land use approvals will be released.

9 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
10 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
11 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
12 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"
13 means "any costs or expenses reasonably related to the abatement of conditions which violate County
14 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection
15 and administrative costs, attorneys fees, and the costs associated with the removal or correction of
16 the violation." Reasonable abatement costs accrued by the Code Enforcement Department will be

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1 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within
2 ninety (90) days of the date of this Order to Abate Nuisance.

3 Dated: _____

COUNTY OF RIVERSIDE

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By _____
Roy Wilson, Chairman
Board of Supervisors

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6

ATTEST:

7

NANCY ROMERO

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Clerk to the Board

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By

FORM APPROVED COUNTY COUNSEL

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BY Julie A. Koons Jarvi DATE _____
JULIE A. KOONS JARVI

Deputy

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(SEAL)

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